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The Causes of Secession

An Essay Prepared by

J. J. McSWAIN IN 1896

WHILE A STUDENT AT
SOUTH CAROLINA COLLEGE

PUBLISHED AT
Greenville, South Carolina
January 1, 1917

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The American's Creed

I believe in the United States of America as a government of the people, by the people, for the people; whose just powers are derived from the consent of the governed; a democracy in a republic; a sovereign nation of many sovereign states; a perfect Union, one and inseparable; established upon those principles of freedom, equality, justice and humanity for which American patriots sacrificed their lives and fortunes.

I therefore believe it is my duty to my country to love it, to support its constitution, to obey its laws, to respect its flag and to defend it against all enemies—*William Tyler Page.*

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Author
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STATEMENT

The 500 copies of "The Causes of Secession" published in 1917 were soon all called for by the wide demand. It was but a boyhood (perhaps also boyish) essay, but it states some of the striking facts of history and some of the unanswerable arguments. Many school teachers have told me they find it useful in teaching American History. The demand continues, and I am having the same printed again, in the hope that it may help to preserve the correct view of our Federal Government, which is in fact a dual system. Each government—State and Federal—is separate and sovereign within its sphere. Only thus can we hope to preserve the precious rights of local self-government to which largely the peculiar and powerful Anglo-Saxon civilization owes its life. That very self-reliance, individual initiative and inventive genius that have distinguished us in peace and war, take root and flourish in local self-government.

To show the wide spread interest still felt and manifested in this subject, even in other sections of the country, I am publishing some of the letters received as a sort of appendix.

The subject "Americanism" is on every tongue, but its definition is various and variable. To many it is a chauvinistic boast of military power. But in the hearts of the masses the ideals of freedom, justice and Democracy still survive as the most precious possessions of America. These ideals should be more generally expressed and defined in order that they may be more correctly applied in our political life. When the American people realized that in some vague but real way the life of these ideals were at stake in the World War, they freely and quickly offered all—wealth, comforts, blood, and even life—to save human freedom. The phrase "to make the world safe for democracy" was caught up and passed from heart to heart as the war-cry of this mighty modern crusade.

Please let me suggest to the teachers (to whom principally this little volume will go) that the free public school is the

nursery of patriotic citizenship, of a justly conceived Americanism. Let me suggest some of the books I have found helpful in seeking to grasp the full spirit of Americanism, and especially let me urge that high school students learn "by heart" the "Declaration of Independence." Correctly interpreted it is the epitome of the world's best political thought. I need not here apologize for using the word "political." It has no suggestion of mere partisan activities. It refers to the combined governmental rights and duties of mankind struggling upward to the light and power of liberty, social equity and economic justice. But here are the books —"The American Spirit—a Basis for World Democracy" by Monroe and Miller; "Changing America", by Ross; "America Today", by Gauss; Vol. 1 "History of United States" by Hawthorne; "Ethics of Democracy" by Louis F. Post; "The Religion of a Democrat", by Charles Ferguson; "The Soul of Democracy", by Griggs; "National Ideals and Problems", by Fulton; "Twentieth Century Crusade", by Lyman Abbott; "American Political Ideas", by John Fiske; "The New Democracy", by Weyl; "The Promise of American Life", by Croly; "The New Freedom", by Woodrow Wilson; and back of it all "The Old Freedom" developed by the English people as told so vividly by J. R. Green in his "Short History of the English People", which the Czar of Russia once forbade to be sold and circulated in his domains for fear it would suggest to his people how to make real their rising democratic aspirations.

Teachers and students of history will also be interested to learn where the facts of history as viewed from the Southern School of Constitutional Law are available; they will find in pamphlet form much exceedingly valuable and highly instructive information in the following: "Aftermath of the Confederacy" by Hon. D. S. Henderson, Aiken, S. C.; "Address" of Rev. Wm. E. Boggs, Columbia, S. C., April 22, 1919; "A Vindication of the South" by Chief Justice Eugene B. Gary, Abbeville, S. C., and "A Collection of Addresses" by Miss Mildred Lewis Rutherford, of Athens, Ga.

Some of the subjects taught in our schools and colleges are not expected to be remembered by the students, but their value consists principally in mental discipline. But such can-

not be said of history. The study of history has high value, both as information and as training the mind to reason about human conduct, its causes and effects. The teacher who conceives of history as "the unfolding of the essence of spirit", who fills in the bare skeleton of facts and dates with flesh and blood and nerve of motive and of ideals; of striving after some goal on the highway of human progress—such a teacher is an asset of highest value. No part of history can be properly studied isolated and separated from other history. The history of the people of the United States cannot be understood unless the Old World setting from which it sprang, and the contemporaneous movements in the Old World, are also known and understood. It must not be assumed that our history started with the discovery of America, nor that the Declaration of Independence was the beginning of political freedom.

I sincerely trust that history will find a larger place in our schools and colleges. For that reason, I am sending out this booklet to encourage the truth of American history, the whole truth, and nothing but the truth, by including that part which is too often left out of our school histories, and which relates to the causes and reasons for the secession of the Southern States. When the true value of American Constitutional liberty is understood, it will be realized that our fathers of the South were fully in line with their fathers of Revolutionary days, who were in turn maintaining the principles of Anglo-Saxon local government, for which many generations of Englishmen had struggled and fought, and some of them died, in that "snug-little, tight-little island" just west of Continental Europe. Then trace that same craving of the human heart for freedom and justice and fairness back to the Teutonic clans of northern Europe, and draw a great lesson for our nation today by showing how through false ideals of national greatness they were subjected to the slavish system of militarism, which reduced those who were once pioneers in liberty, to willing tools of the ambition of the Hohenzollerns. When this long chain of cause and effect once takes hold of the mind of a student, he then can grasp how the Allies in the recent World War, we and our Allies, were battling for the best in civilization. Then the student will

feel the warming and moving conviction that, "freedom's battle, once begun, though baffled oft, is ever won."

During the recent hostilities I was associated not only with men from the two Carolinas and Tennessee, but also with men from Arkansas, Mississippi and Louisiana, and later with men from Kentucky, Ohio, Kansas, Washington, Oregon, and Wyoming, and in fact nearly every state in the union. I was impressed with the rather confused ideas as to the scope of our Federal Government that prevailed in the minds of many of my associates. It seemed to be assumed by such that the Federal Government has power to do any thing that a majority of those in contral decide to do. However, at the Constitutional Convention of the American Legion held at Minneapolis, in November, 1919, after a rather intimate association with picked men from each state in the union, on two important Committees, and after the question of local self-government in important matters relating to the Legion had been thoroughly discussed, I found that the members readily yielded to the force of the argument and acknowledged the soundness of the principle that Federal authority should be limited to matters of general welfare, and should not interfere with local concerns. Therefore, we were gratified that the organic law of the American Legion was formulated after a general analogy to our Federal system.

It is therefore gratifying to report that this division and distribution of powers between the State Governments and the National Government are being acknowledged as sound, not only upon historic and constitutional grounds, but as sound and wise on grounds of expediency and economic principle.

J. J. McSwain.

INTRODUCTION

This essay was written in the summer of 1896 and carefully revised in the fall of that year. In the spring of 1896 the Wade Hampton Chapter of the United Daughters of the Confederacy of Columbia, South Carolina, announced to the students of the South Carolina College that it would give a medal to that student submitting the best essay on the subject of "The Causes of the War of Secession." I was then in my twenty-first year and determined to contest for the medal. After commencement, I immediately began to study. I found in the library of my father, Dr. E. T. McSwain, the splendid work of Jefferson Davis, "The Rise and Fall of the Confederacy." I had already partly read Volume I of Calhoun's works which I had found in the home of my grandfather, Captain J. J. McGowan. These two works were thoroughly studied, and in like manner the congressional debates between Calhoun, Webster and Hayne, and other leaders were studied. The entire vacation was spent upon this research and the compilation of notes.

Upon returning in September to resume the work of the college year I fortunately obtained from Rev. J. William Flinn, D. D., a book entitled "The Republic of Republics." The author of this book I cannot remember and have been unable to find a copy of it since, but any one will confer a favor upon me by furnishing me with the information as to the author and where a copy may be obtained, as I should delight to read it once more. My impression is that it is a logical and comprehensive argument. I was informed that it was originally prepared to be used by counsel for Jefferson Davis upon the trial for treason, for which he stood indicted in a Federal Court.

When the idea first came of publishing this essay in pamphlet form on the twentieth anniversary of its preparation, I had hoped to amplify and enlarge the same as a result of subsequent study. However time has forbidden any such labor and the same goes forth as it was originally written

and passed upon by the committee of award without the change of a single word. That committee was composed of LeRoy F. Youmans, H. Cowper Patton and Andrew Crawford, leading members of the Columbia Bar. The presentation of the medal was made in the hall of the House of Representatives in the State Capitol by Chief Justice Henry McIver before the joint session of the Legislature, the Governor, the Supreme Court, the Trustees of the South Carolina College, the Faculty, the students and the public, on January 19, 1897. I understand that this same Chapter of the United Daughters of the Confederacy has annually conferred a medal for the best essay upon some phase of Southern history since that time, to some student of the South Carolina University submitting the best essay. This is a worthy practice, calculated to arouse the young men to study history and to promote patriotism.

My main motive in publishing this essay of boyhood days is to furnish to the young people of our State some of the facts that justify the War of Secession. After making numerous addresses before bodies of Confederate veterans and having often in such addresses used some of the material found in this essay, I have been approached by numbers of veterans and their sons and asked for the authenticity of some of the statements therein made and in connection with such conversations, I often mentioned this essay, and have been urged frequently to publish same.

The burden of my address on all such occasions has been to impress the thought that there was an honest and conscientious conviction among the American people of all sections, based upon historical facts and documents, that the primary allegiance of the citizens was to the states, and only secondarily to the United States. Hence, in the event of a conflict between the State authority and Federal authority, the citizens were bound, as for instance Colonel Robert E. Lee felt bound, to obey the call of the State as determined by a majority of the people of the State. This aspect and view of the Constitutional obligation of the individual citizen was not sectional, and was not an original conception of the people of the South, as shown by the facts mentioned in this essay. Since there was this honest view of the allegiance of

the citizens, entertained by practically all of the leaders in the movement to establish the Federal Republic at different times in our history, no honest man can say that the citizens of the states which seceded, and the soldiers and sailors of the Confederate States, were traitors, or rebels. While this question has been settled by force of arms and thus settled forever (a settlement acquiesced in by surviving soldiers of the Confederacy and by their sons and grandsons), yet such a settlement by war does not obliterate the truths of history, and the force of the logic based upon the facts of history and documentary evidence.

I conceive it to be impossible to understand properly the course of American history without understanding and appreciating the contentions of the constitutional doctrine known as "States' Rights." This doctrine is in full force today and maintained by both the State Courts and Federal Courts with full vigor and definiteness, in all respects as contended for by the leaders of the school of thought headed by John C. Calhoun with the sole exception as to the right of a state or of states to secede. In this respect the courts would doubtless follow the decision of the court of Mars and would doubtless hold that no state has a constitutional right to recall that portion of her sovereignty which was originally conferred by her. Naturally this view of "States' Rights" as to secession was rendered less and less plausible by the fact that nearly seventy-five per cent of the states of the union have been admitted since the original thirteen states erected the Federal Government. Most of the new states have been carved out of territory which belonged to the Federal Government and as to these states the logic of history seems to be that the rights of state-hood were conferred by the Federal Government. This fact is quite different from the positions of the thirteen original states, which were separate and independent and voluntarily elected to join each other in the formation of a Federal Government.

The status of the states formed out of territories may be also contrasted with the status of the State of Texas, which was an independent republic with an organized government, and voluntarily affiliated herself by annexation and admission with the other equal sovereign states already in the con-

federation. About fifteen years after Texas had thus associated herself with the American states she decided to withdraw her affiliation, by secession. Logically it would seem strange that she was not permitted to do so; by equal force of logic honest students of history cannot charge that the secession of Texas made her people traitors.

In a broad view of American history the War of Secession between American states may be regarded as one of the struggles of Anglo-Saxon people for independence, individual liberty and local self-government. A very fine interpretation of American history is to be found in a small volume consisting of a series of lectures delivered by Henry Van Dyke in France, on "The Spirit of America." This book might well be used as a text in our high schools and colleges and would furnish a key to a comprehensive understanding of the movements in American history from the earliest settlement to the present time. I am persuaded that the people of the Northern and Eastern sections of our republic are equally devoted with the people of the South to the principles of local self-government and individual liberty, which is but another way of expressing the doctrine of "States' Rights" with the exception of secession. I am quite sure any feeling of hostility towards the people of those sections no longer exists, and that there is the same love for the ideals of the Federal Republic among the people of the South that there was when our independence was achieved and when we joined with people of other sections in erecting a Federal Government to promote the general welfare and to provide for the common defense.

In this broad view the soldiers who followed Lee, Jackson, Johnston, and Hampton and other gallant leaders of Southern arms and of Confederate counsels, were patriots of the same sort as the soldiers who followed Washington, Lee, Greene, LaFayette, Steuben, Marion, Sumter, Pickens and all the other leaders of the Colonial arms and counsels which dared to defy and resist the action of a British Parliament in violating the Anglo-Saxon right by inheritance of local self-government. In a broader view both these movements in American thought and action are lined up with the facts of English history and with the struggles of the people of that

"Snug Little Island," for a government representative of the convictions of the people, which finally culminated in Magna Carta, the Petition of Right, Bill of Rights and Habeas Corpus. Indeed, the movement for liberty, for a government that does not violate human justice, did not cease in England when American history branches off from English history. It must not be forgotten that the colonists had such friends in the British Parliament as William Pitt and Edmund Burke. It must not be forgotten that England has had her Richard Cobden, her John Bright, her Gladstone, her Asquith and her Lloyd-George. Therefore, if the facts of Southern history are studied and understood in this broad way, such understanding will be the key to an appreciation of all American history and of English history and through them to the study of all history—that record of the struggles of humanity for the achievement of her ideals, some of which are liberty, equality before the law, a just reward for all labor, a fair opportunity in life for every man, and of all those customs, morals and virtues comprehended by the term "Civilization."

In order to arouse some interest in the study of history among our young people, in order to show that the present generation are not the sons and daughters of rebels and traitors, in order to show that the four years' war from 1861 to 1865 was a great human sacrifice of life and treasure placed upon the altar of human liberty, in order to show that the belief in the right of secession was not sectional and not selfish, in order to show that the descendants of the soldiers of the Confederacy need never apologize for secession, but may proudly explain its place in history, I have decided to publish and to distribute free the following effort of the Southern school boy, whose early impressions and convictions have not been altered by the calmer thought of manhood.

J. J. McSwain.

Greenville, S. C., January 1, 1917.

"The Causes That Led To The Secession of The Southern States From The Union"

Before any body of society can rightfully take a step of so grave a nature that war, terrible and cruel, is liable to result, two questions must be answered affirmatively: Is it right? and, is it necessary? So, in reviewing the influences by which the great body of Southern people was induced to withdraw from political fellowship with the North, we must determine the constitutional right, and the economic and political necessity. These influences, stated in the logical as well as the chronological order, of causation, are geographical and political. It was the difference of ideas and opinions brought about by industrial diversity that determined the peculiar nature of the constitution in many important respects. It was the difference in construing and interpreting the constitutional provisions that brought on the many bitter political struggles.

But in Society no causes ever operate singly or alone; they mutually act and react, so that the course of a political community is always the resultant of many diverse and conflicting forces. Thus, in our history we find opposing the sentiment of separate State indentity a tendency to strengthen the federal government, to unify the different sections, despite their respective peculiarities, under one centralized authority, administered from a common centre, endowed with the sole and absolute allegiance of its citizens. But we are now to trace those forces which, more than neutralizing the latter tendencies, finally brought about the disruption of the union and arrayed section against section, citizen against citizen, and brother against brother, in one of the most terrific combats on record. Let us pass, then, first to the constitutional justification of Secession, and second to the political provocation.

The relations sustained by the states toward one another according the Constitution has been the great point of contention; happily all parties admit that the Constitution is the

only evidence of any political connection between the states. Now in the construction of any instrument, two sources of evidence must be considered, the history of its formation, and its verbal contents. Again, it is admitted that no single clause of the Constitution is devoted to a statement of the precise governmental relations between the states. In discussing the subject, we shall consider by whom the Constitution was established, its nature as understood by contemporaries, and for what it was established, as historical evidence, next, we shall consider how it was established as revealed according to its own terms.

In determining by whom the Constitution was established, we must review the relation sustained by the people of the several colonies, in the colonial condition, after the Declaration of Independence, and under the Articles of Confederation. The various colonizing enterprises were absolutely independent of each other. The chief methods by which settlements were made in the new world were voluntary association, proprietary regulation, and direct royal supervision. Owing to distance and lack of means of communication, the people of one colony did not know those of another colony. They differed not only in the matter of government control but often in nationality, language, habits, religious sentiments, and social refinement. Thus the American colonies did not grow up as one aggregated community but as several separate and distinct bodies. The Declaration of Independence declared that the colonies "are and ought to be free and independent states." In the treaty of peace of 1783 England acknowledged the independence not of one country, "the United States," but of the thirteen separate states each being specifically named; and they severally assumed the position, duties and responsibilities of Sovereign States. Under the Articles of Confederation the several states are bound by "a firm league of friendship" to repress all force offered to them from any cause whatever. Furthermore it was declared that "each state retains its sovereignity, freedom and independence and every power jurisdiction and right not by these articles expressly delegated to the United States in Congress Assembled." Thus unqualified independence was reserved to each state.

On account of confusion in the commercial regulations and of difficulty in paying off the national debt incurred in the Revolution, a revision of the Articles of Confederation was deemed necessary, and a convention, composed of delegates appointed by the states individually, met in Philadelphia in May, 1787. This convention knew very well the limitations of its power, and merely reported the result of its labors to the general Congress. Until ratified by the states the Constitution was a mere suggestion, a bare recommendation having no more force than an ordinary magazine article. Disregarding those provisions of the Articles of Confederation which declared "The Union shall be perpetual" and "any charge shall be agreed to by every state," the Convention provided in the Constitution it framed that the ratification of nine states out of the existing thirteen would be sufficient to establish the Constitution "between the states so ratifying the same." Thus it is evident that the Constitution was ratified by, and received every vestige of its power by virtue of its having been ratified by free, sovereign and independent states.

There has been endless discussion as to how its framers regarded the Constitution; contemporary evidence is always best, as it must be assumed that the architects understand the edifice. The question in hand is one of fact, not of reason, and the facts must appear on the record. Generally speaking, there were two classes in the constitutional convention of 1787; one wished to retain the administration of almost all important powers with the states, while the other wished to establish a strong, centralized, general government, wherein the states would be mere districts for political convenience. That the latter theory was rejected will be shown by the admissions of its strongest advocates. George Washington, the president of the Convention, said that, "New York had on the 21st of June, 1788, acceded to the new confederacy." Benjamin Franklin regarded the Constitution as a compact between sovereign states, and proposed in the Convention the establishment of the Senate in order to secure "the Sovereignties of the individual states," John Dickinson calls the new political system "a confederacy of republics," in which the sovereignty of each state is represented. Gouveneur Morris, a most distinguished member of the Convention, long

afterwards declared, "The Constitution was a compact, not between individuals, but between political societies." James Wilson spoke of the general government as "a federal body of our own creation," and declared that the object of the Constitution was "to confederate anew on better principles." Samuel Adams declared that the reservation in the X amendment of all powers not delegated was the equivalent of the provision of the Articles of Confederation that "each state retains its sovereignty, freedom, and independence." Roger Sherman declared that "the government of the U. S. was instituted by a number of sovereign states." Oliver Ellsworth spoke of the Union as a "confederacy," and stated that "the Constitution does not attempt to coerce sovereign bodies—states in their political capacity." John Marshal, the most celebrated jurist of his time, deemed that a state might not be made to answer before a Federal Court, and added that "it is not rational to suppose that a sovereign power should be dragged before a Federal Court." George Cabot in his argument for the adoption of the Constitution said: "The Senate is a representation of the sovereignty of the individual states." We now come to the expression of the three ablest commentators on the Constitution, who pleaded for its adoption. Alexander Hamilton said: "If the new plan be adopted, the Union will still be in theory and in fact, an association of states, as a confederacy." He also said that the system must also satisfy all "the parties to the compact." James Madison emphatically declares that "the states are regarded as distinct and independent sovereigns by the Constitution proposed." John Jay favored the states continuing united under one Federal Government and called the system established by the Constitution "a Union of States." These, then, are the facts for which we asked; not creatures of unbridled imagination, not fictitious fancies, but the deliberate expressions of the wisest statesmen and noblest patriots of the time, of every party and of every section.

The next question and last one under the head of historical aid to construction is—for what was the Constitution established? Of course the preamble expresses the purpose in general terms, but behind all this there was a force and influence not evident on the face of the Constitution. The res-

olution of Congress calling a convention expressed the purpose of revising the Articles of Confederation so as to "render the Federal Constitution adequate to the exigencies of the Government and the preservation of the Union." An analysis of this passage shows that the Articles were called a Constitution, thus rebutting Webster's famous question, "What does it call itself?", thereby implying that the word Constitution is applicable only to an original self sufficient government over a single people united on the principle of social compact. But here we find the Articles of Confederation called "a Constitution," which all admit to have been a compact between sovereign parties. The analysis also shows that this government, which declared in terms of its organic law to be "perpetual" was in great danger of being dissolved. The exigency of government referred to was lack of funds, the Federal Congress had contracted debts, but had no means of raising funds except by requistions upon the states, which were often slow to respond. It must have money and if not from states then from individuals; but the Federal Government could take no cognizance of individuals; therefore, the Federal authority was made to act upon individuals, but only within the limits of the powers delegated in the Constitution. Again, the power of regulating commerce had been reserved to several states under the Confederation, and these were often conflicting and brought on general confusion. Therefore, it was decided to repose the general power over foreign and inter-state commerce in the Federal Legislature. As a comparison will show, these were the main additions to Federal power made by the Constitution of 1787; it was merely a reorganization of the government for the more effective administration of the powers already delegated. For convenience and safety, executive and judicial powers were granted commensurate with those of the Legislature. The fact that power over individuals is yielded in certain prescribed limits is an eloquent recognition of state sovereignty. The Confederation was a good thing, but it took money in order to exist; yet money could not be forced from the states, because they were answerable at no court. So, the Federal power is made to have a limited operation on individuals in order to maintain the Federal Government. The states were

to pursue their independent courses unrestricted except by the self imposed limitations of the Federal Constitution. It was not provided in the new compact that the Union shall be "perpetual," as under the old. Thus, the purpose of the Constitution of 1787 was not to supplant limited with absolute authority, not to change the relation between the contracting states as parties, not to merge the people of several disinct and independent communities into one aggregated centralized authority but to provide for the effective administration of the Federal powers already delegated.

But it may be objected that the object was "the preservation of the Union." How? Not by destroying all Union in consolidation, not by holding the parts together by military force; but by rendering the Union beneficial, by planting it in a healthy public opinion, and by showing its common counsels worthy of common pride and support. The purpose was to preserve the Union by preserving the states in all their integrity; when these conditions shall have been fulfilled there will be "a veritable indissoluble Union of indestructible states."

We must next pass to the consideration of how the Constitution was established; the evidence of this is found in its own terms. The Constitution was submitted to Conventions representing the sovereign people of each state, to be approved or rejected as they individually saw fit. The ratification of nine states was to set it in operation, but only "between the states so ratifying." There never has been known any such community as the "United States" in the aggregate, as a social unit. "We the people" necessarily means the people of the states separately. The Constitution might have been set in operation by less than a numerical majority of all the people of all the states, for the four states, Virgina, Massachusetts, Connecticut, and Pennsylvania, comprised a little over half of the total three millions in the thirteen. The other nine states a numerical minority, might have started the Constitutional machinery; most assuredly in the name of "we the people," but only among the people of the states so ratifying. Thus we finally conclude that the Constitution was established by free and independent states, that its framers understood it to be a compact between the states as con-

tracting parties, that it was established for the purpose of preserving the states in their individual integrity, and that each state by ratification voluntarily made the Constitution the supreme law in its territory, as to powers thereby conferred.

Let us consider the nature of those independent states just mentioned. A state is its citizens, and citizens are society. Protection is due the citizen from society, and allegiance is due society from the citizen, since according to the American theory sovereignty inheres in the people or society alone. But the corporate states are the only known units of society in this country. Therefore, the sole and primary allegiance of the citizen is to the state, and he fights for the "Stars and Stripes" only because his mother state by her ratification of the Constitution commanded it. Rebellion is resistance to the rightful sovereign and all who assist rebellion are traitors. Therefore, Lee and Davis and all the Southern men that so heroically fought and bled for their rights and interests, were not rebels and traitors, but noble patriots, warring in defense of their sovereign states.

The general government established by the several independent states, is of the nature of an agent. The Constitution carefully confines itself to speaking of powers and these alone were delegated, as sovereignty neither was nor could be surrendered. These powers of the Constitution are explicitly said to be delegated and limited, and evidently could not have been delegated by the general government for it was created by the Constitution. All discretionary powers reside in the sovereign. Consequently, no allegiance is due the Federal Government except as the the state commands.

The nature of a conditional compact is evident on the face of the Constitution. All the states were leagued together under the Articles of Confederation, and a scheme is projected to the effect that, if nine states can be induced to enter into a new league, the old will be subverted. Each of the nine states called a convention which solemnly ratified one Constitution while already bound to another in "perpetual union," each did not know whether or not any other states would ratify. The virtual effect is this, the ratification of each state is conditional on the ratification of eight others. Therefore,

the ratification of each is a proposition which being answered by the others with ratification becomes a contract. The failure of any state, then, to observe any stipulation of the contract would have the same effect upon the others as failure to ratify would have had, in the first instance, in short, the state would be relieved of any obligations assumed by ratification. This it is seen involves the essence of secession, and we will show that secession under the above condition is necessarily legitimate. Every breach of law must have its legal punishment, administered by force if need be. But the states cannot be legally coerced; because first, it is necessary that so important a power be expressly given; second, the fathers of the Constitution held that the states were not to be coerced; and third, the making of Federal power operate on individuals proves that states were not to be coerced, as already seen. Therefore, secession was no breach of law, since there is no legal power to prevent it. Again it must be conceded that a legal right implies a legal remedy. The states have some rights guaranteed by the Constitution, and a right to all powers not delegated. Suppose the former be disregarded, and the latter encroached upon. Where is the remedy of the state? Certainly not in the Union, for a selfish and despotic majority still encroaches and abuses. She must seek her rights, and find the remedy for the wrong inflicted upon her, outside of the Union.

How could a state, singly and alone, ratify a general, Federal Constitution? The powers of the Federal Government concern each state individually; they concern all aggregately. Now, each state, acting in its sovereign capacity, could establish one, two or more systems of government, differing as to a sphere for the regulation of its own affairs. Thus, the Federal Constitution is as much the Constitution of each state as its separate Constitution; and every citizen owes it obedience for the same reason that he must obey the State Government because the sovereign people of the state has commanded it. It easily follows that there is no such thing as a separate, self-existent Federal Government, but it represents a part of the power inherent in the people of each state. The general government is, therefore, the creature of the states; it resulted from the accessions of individual states to

a compact, and is not "made the final and exclusive judge of its powers, but as in all other cases of compact between parties having no common judge, each state has an equal right to judge for itself, as well of infractions as of the mode and measure of redress." Whenever, then, the operation of the Federal Government becomes prejudicial to the interest of any state by virtue of its powers being perverted, may not that state, acting in the same capacity by which Federal powers were brought into its bounds, revoke its sanctions and recall the powers delegated to the general government by its own free will? It results from the nature of the Constitution, as well as from the tenth amendment, that it must be strictly construed. All that is not given is denied. It is sufficient for us to ask for the article and section where the sovereignty of individual states was surrendered to the Federal Government. Surely it was necessary to mention so important a fact; surely so important and dear a thing as the freedom and self-government of a people is not to be hazarded on implication, and left a prey to the greed of the "interpreters." No; Samuel Adams was right when he said that the tenth amendment was equivalent to the provision under the "Articles of Confederation" that "each state retains its sovereignty, freedom, and independence." It was President Buchanan who said: "Our Union rests upon public opinion, and can never be cemented by the blood of brothers shed in Civil War. Congress may possess many means of preserving it by conciliation, but the sword was not placed in their hand to preserve it by force." Against the solemn determination of a state to separate itself from the others, there is no legal remedy. The power that gives can take away. The power of repeal is commensurate with that of enactment. The state voluntarily made itself subject to the Federal Constitution; may it not by the same power withdraw its consent? It was not necessary then, that there should be an express right of secession; but to rebut this claim, there must have been an express denial of the right.

The following is a summary of the points sustained up to this stage of the discussion:

I. The people are the states, and the states constitute whatever nation there is; the general government is the agent

of the states by means of which they exercise federal self-government.

II. Federal acts outside of the delegation are void, and to be resisted as usurpations.

III. The Federal Government is absolutely without authority to coerce states.

IV. The states, as sovereign societies, have the natural and unlimited right of self-defense.

V. To defend and obey the state is the duty of every citizen.

It has been happily said, "Use and wont make law." The best law is but crystalized custom. What has been the habit of thought and action in regard to the right of secession? The war of the Revolution was fought for the principle of local self-government, and this sentiment was kept alive in the minds of the people by the annual fourth of July celebrations. As already seen, the colonies united themselves in a firm league of friendship, which was to be perpetual, and any amendment was to receive the consent of every state. Yet for well-nigh trivial reasons, it was deemed fit to form publicly and without fear of reproach, a scheme whereby nine of the states might secede, despite the prohibition of the Articles of Confederation that no agreement should be formed between states. They did not even observe the formality of each state's individually seceding, as it had acceded, so plain was the absolute and unqualified independence of each in the minds of the people. And in what clause of the Constitution is the change of status between the states declared? Surely its importance demands notice. As a matter of fact it was not changed, and it was so understood by the leading men of the time. John Marshall said: "It is the people (of the states) that give the power, and can take it away. The government is not supported by force, but depending on our free will." Chancellor Pendleton, allaying the fears that the power might be stressed, declared: "We will assemble in convention (as a state) and wholly recall our delegated powers." James Madison in speaking of the injury liable to result from a perversion of powers declared that the powers, "being derived from the people of the United States (would) be resumed by them." And the list of such witnesses as

James Iredell, Roger Sherman, James Wilson, Fisher Ames, Edmund Randolph, and Alexander Hamilton might be extended to the effect that the power which created the government can destroy it. As the government was established by the states individually and separately, they alone can act in its dissolution. This was the undoubted sentiment expressed by the Virginia and Kentucky resolutions of 1798, while the government was yet young. These resolutions brought down no shower of reproaches and charge of treason upon their authors; they were known to be true. They were echoed back from the people by the election of their inspirer, Thomas Jefferson, to the office of President.

Again in 1803 the purchase of Louisiana from France awakened sectional jealously to such an extent that many threats of secession were made in the New England states. Timothy Pickering, a very prominent Federal official during the early administration, wrote that "I will rather anticipate a new Confederacy," and "that this can be done without spilling a drop of blood, I have little doubt." And it was declared in the House of Representatives by Josiah Quincy in reference to the admission of Louisiana as a state; that, "If this bill passes, it is my deliberate opinion that it is a virtual dissolution of the Union." In 1814 when Northern commerce was being ravaged by war, a convention of delegates elected by the Legislatures of Massachusetts, Rhode Island, and Connecticut, met in Hartford, and held secret sessions for many weeks. For a long time the minutes were not published, but in their address to the New England States they say: "Some new form of Confederacy should be substituted among those states which intend to maintain a Fedcral relation to each other."

The project for the annexation of Texas in 1845 revived disunonist sentiments at the North, and the Legislature of Massachusetts passed a resolution that the attempted annexation, if successful, would tend to "drive these (Northern) states into a dissolution of the Union," and further that the act, even if passed, "would have no binding force upon the people of Massachusetts." Yet these threats received not the stigma of treason. It is, therefore, evident that the men of the South lacked neither precedent nor instruction from

their Northern brethren to justify their course of 1861. The Constitution being regarded as a compact between sovereign states, the disregard of its stipulations by some of the states is considered to relieve the others of their obligations according to the principle of unlimited contracts. And when a state chooses to consider herself relieved, where is the Constitutional power to prevent her sovereign will from being acted out? There being no legal power to prevent it, secession as a means of self-preservation must be legitimate, and consequently, those individual citizens that defend the course of their state by arms, even against Federal power, are by no means traitors, but the truest of patriots.

We must now pass to what was described in the beginning as the "political provocation of Secession," the proximate cause. The men of the Southern States were too noble minded and true to duty to take so grave a step as Secession on the bare grounds of economic expediency, or for political revenge; their action must be based on the assurance of truth and right. For this reason, then, has so much time and space been devoted to establishing the right of Secession under the existing form of government. The right is always a primary and essential condition of action. Thus, what at first sight might have seemed a justification instead of an examination of causative influences, appears a conditioning element, without which any action by the South would have been not secession, but rebellion and revolution. Let us now address ourselves to those accidental causes and occasions that drove the states to the exercise of this right.

There have always been two tendencies in the formation of political parties of this country, characterized respectively by an inclination to a strict and loose construction of the Constitution. The latter tendency attaches to the party in power, who have all to gain by an enlargement of Federal jurisdiction; while the former is manifested by a minority, who have all to lose by a perversion of the delegated powers. Thus, there could be but two political parties in the main, and we shall next show how these at once assumed a sectional character. The operation of the law governing the formation of political parties is as inevitable as that of the law of gravity. Identity of interests, and similarity of

thought and custom, make it easy for those in the same and contiguous districts to form a party; absence of these conditions of course makes it difficult. As party violence increases, stirred by a desire for the honors and emoluments of government, the temptation to appeal to all local feelings, interests and prejudices becomes stronger and stronger; finally the parties become exclusively sectional. Especially would this become so in a country of such vast extent as ours, varying climate and, consequently in occupations; thus during the period under discussion the North was pre-eminently a manufacturing and commercial district, while the South was agricultural. So, we find sectional jealously very strong in the convention of 1787, and this body made every effort so to distribute representation that the equilibrium between the sections might be maintained. The whole political history of the country may be analytically reduced to a contest between rival sections; the temporarily successful seeking to secure permanent tenure by holding Federal powers, and thus to enrich its leaders, the minority striving to protect itself against the encroachment of the majority by holding it to a close literal execution of the Constitution, and for this purpose, they resorted to the States as the original source of all sovereign power, asking the States to declare the rightful limits of their creature. The powers of government were divived between the State and Federal governments, and the question was ever rife as to which should decide on the extent of their respective authorities. According to one view, Congress was supreme over every State law. According to the others, the States as sovereigns were the final judges of their own, and consequently, of Federal powers. The two opposing sections, the North and the South, assumed the championship of these opposing views.

An analysis of our political history up to 1860 will show that all great measures that affected the popular mind, may be grouped under three heads: (1) The adjustment of the Tarriff, (2) the acquisition of territory and admission of States, (3) slavery legislation. Around each of these heads is grouped a series of events that embittered party enmities, and thus estranged the two great sections so that finally they could no longer sustain the relation of political associates.

Congress is empowered to lay and collect imports in order to pay the debts and provide for the common defense and general welfare of the United States. There early arose a policy among the various parties representing the Northern section to appropriate money from the Federal treasury to build public works and make public improvements in general. This was opposed by the South as unwarranted by the Constitution, which allowed imports and taxation for necessary revenue alone. But as the North was fast becoming naturally a manufacturing district it was soon found that she could control the price of the manufactured articles, if the competition of foreign goods were cut off by high import duties. This greed grew by what it fed upon, until the "protection of home industries" became a popular fad with New England politicians. We are not concerned with the merits or demerits of the principle of protection, as a national policy. The pertinent fact remains that the law in violation of the Constitution was imposed by a heedless mapority of one section, to the injury and oppression of the other section. Finally S. C. believed the operation of this system so disastrous to her agricultural interests and the perversion of the Constitution so palpable and flagrant, that she passed an ordinance of nullification whereby the unconstitutional law was made inoperative within her bounds. Her action was based upon the principle that, being unwarranted by the Constitution it was no law, and it became the State with whom all residuary powers remained so to declare it. A compromise was effected in Congress for the gradual reduction of duties, and S. C., having gained her point, repealed her ordinance.

The regulation of the Tariff was often afterwards the bone of contention in Congressional disputes, which had their baneful effect upon the popular mind. We are not now concerned with establishing the unconstitutionality of such laws. The fact that they were respectively supported and opposed by the two sections almost to a man, is very reprehensible, and is indicative of evil results to all that know to what extreme violence party feeling may rise when parties become sectional. The course to which S. C. felt herself driven in

1832 opened a gaping breach between the two sections that has never been closed.

The question of enlarging the territorial dominion of the country was always an occasion for sectional enmity to manifest itself, no matter whether it were the acquisition of new territory or the admission of a State, the party question was—whose side will it strengthen? The following facts will show how completely the interests of the whole country, the general welfare were prostituted to those of party as voiced by the sections. In 1803 the general government under the administration of Mr. Jefferson purchased the Louisiana territory from France in order to secure the unrestricted navigation of the Miss. river for the new States being formed in the vast north-west territory. This broad and beneficent policy was bounded by no geographical lines. But how was this proposition received by the North? The purchase was violently opposed solely because it was Southern territory. This was avowed by Col. Pickering when in opposing the purchase he said: "The influence of our (Northern) part of the Union must be diminished by the acquisition of more weight at the other end of the extremity." Louisiana was a slave holding State, yet no objection was made to this. It was the mere apprehension of Northern loss of influence that made Col. Pickering hope for a new Confederacy to be peaceably formed. Again in 1811 when the bill for the admission of Louisiana as a State was pending, Josiah Quincy declared that the passage of the bill would be a virtual dissolution of the Union, and that, "As it will be the right of *all*, so it will be the duty of *some*, definitely to prepare for a separation."

When in 1819 Missouri the second State carved out of the Louisiana territory applied for admission into the union, a proposition was made to attach a proviso prohibiting slavery in the new State. This opened up a new question. Thomas Jefferson said the news of this novel source of difference "startled him like a fire bell at night." The discussion was continued into the first session of a different Congress, and so agitated the whole country, and so violent was party feeling that the Union for the first time was seriously threatened. While slavery was the all-absorbing evident topic, it was but

too plain that it was a mere adjunct to the existing sectional contest for power. The slave trade could not be reopened; and the aggregate number of slaves would not have been increased by their removal to a new territory, there would have been only a re-distribution. The source of trouble was this: if Missouri was admitted as a slave State, in any later controversy in which the tolerance of slavery would be made a test, she would sympathize and vote with the other slave-holding States. The dispute was temporarily adjusted not finally settled, by a proviso prohibiting slavery in other Louisiana territory North of 36-30 north latitude. This was the first time the slavery question was ever mentioned, despite the government had passed over thirty eventful years, experiencing such cries as the troubles with France in 1793, and over Louisiana in 1803, the Alien and Sedition laws, and war in 1812, causing the Hartford Convention.

The old feeling burst forth in all its fury when in 1845 Texas, having gained her independence, applied for admission into the Union of States. This too would be an addition to Southern territory and a re-inforcement of the Southern party. It was violently opposed by the North, and the admission was effected only by a joint resolution of the two houses of Congress. By the war that readily followed with Mexico vast territory was acquired by the general government in the Rocky Mountain region, and this afforded a sure subject for wrangling between the parties. The discussion shook every quarter of the governmental fabric. The celebrated "omnibus bill" of 1850 was the temporary compromise of the opposing views. The line of 36-30 established by the Mo. compromise of 1820 had no peculiar merit in itself but had acquired such a prescriptive place in the public mind as could not wisely be disregarded. In the Texas territory this same line was extended, because it was primarily slave territory. But when it came to the vast territory of New Mexico, the North would not allow the old line of division; here she would have lost, and not gained; because little of the territory lay above the line mentioned. As a consideration for her dictation to new States and her domination over the South, the North bounteously promised the more effective rendition of fugitive slaves. This was a hack in the back

of the Constitution, it was an admission that fourteen States had repudiated their constitutional obligations in their "Personal Liberty Laws," and had abrogated the existing law of Congress. They rifled us of part of our constitutional rights, and paid damages by securing certain others. They robbed Peter to pay Paul. This was an indication of what the South might expect from her greedy antagonist.

All discussion of Secession is indissolubly associated with slavery. When the Constitution was formed, slavery existed in every State in the Union except Mass. No moral or sentimental consideration influenced its abolition in the Northern States, but this kind of labor was found unsuited to the climate and industries of that section. On the other hand slavery proved to be profitable in the Southern agricultural districts and the climate being genial and favorable slaves rapidly increased. Owing to the operation of these forces, slavery early assumed a sectional complexion, and questions arising out of this fact were the most difficult that the Convention of 1787 had to solve. Long debates ensued over the proposition to give representation in numerical proportion to slaves. We find the recognition of slaves in the Constitution in three places. (1) In allowing representation to 3-5 of slave population, (2) in providing that the importation of slaves should not be prohibited prior to 1808, (3) in providing for the rendition of fugitive slaves. All Southern States had prohibited the importation of slaves before the limitation upon Congress expired; it is true that they were often smuggled in by Northern and British ship-masters. The few slaves that attempted their escape in the early days of the government were readily returned. Not a syllable was heard about slavery for thirty years after the establishment of the government, not a warning breath from this source till 1820, when the struggle over Missouri startled the nation.

The means of this transition from common heedlessness to universal vigilance on the subject of slavery is most interesting as showing the tactics of the North. There could be found in both sections men who did not believe in the abstract question of slavery, considered ethically, religiously, or economically. But being as wise in one respect as another they knew the Federal government had no authority over the

matter, and contentedly held their peace. Not a few persons, however, of the North, prominent among whom was J. Q. Adams, a disappointed politician, set up an agitation ostensibly based upon religion and sentimental grounds, against the permission of slavery in the territories and new States. This movement first attracted attention in 1835, but by 1845 when Texas applied for admission it had gotten many supporters in Congress. When before did a religious sentiment find expression in Congress? How did it get in there? It was simply this: keen politicians at once discovered that the existence or non-existence of slavery was one of the most characteristic marks of the two sections. They saw that any question involving slavery would rally to a man the two sections, and its capacity for being made a popular religious fad would hide its sectional character. There exists no more remarkable evidence of Yankee ingenuity. Thus, slavery was made the scapegoat of political aggrandizement and for awhile served to veil the hideous features of sectional jealousy and hatred.

As already seen the Constitution, the bond between the different States, recognized property in slaves, and protected its existence. Moreover, from the nature of the system the domestic institutions of every State are absolute distinct from, and independent of, those of any other; yet owing to the combined influence of false teaching, and the blindness of fanaticism, many honest people of the North came to believe themselves responsible for this curse of slavery in the Southern States. The opinions of so conservative a body of society as the clergy became so contrary that several of the great denominations of the country divided into two hostile and separate branches representing the political creeds of their respective sections. It was towards the territories that they bent all their energies to prevent the "extension of slavery." No scruples would have risen from these sources, if they only could have listened to reason. The extension of slavery conveys the notion of propagation and multiplications, when in reality it could mean only dispersion and separation, for the slave trade could not be reopened, and slaves could not breed any faster in a new territory than in an old state. Again, these people so alive to their moral obli-

gations, might have appeased their consciences, had they only listened to the Constitution. "Congress shall have power to dispose of and make all needful rules and regulations respecting the territory and other property of the United States." But it must be remembered that the Constitution recognized and guaranteed property in slaves, and Congress could never in the eyes of justice and in the name of a republican government, discriminate between citizens owning legal property in the common territory of United States. Each territory when it comes to organize itself into a state could determine whether it would pursue the slave policy. Congress, however, is not sovereign, and holds its powers in trust under the Constitution which recognized the citizen's right to property in man. The abolition of slavery in the organized states involved three very important considerations. (1) It was a question of property; two billion of dollars were thus invested, and abolition would strike this from the country's wealth; it was claimed, however, that there were scarcely over sixty thousand slave owners. (2) It was a question of social status; should these four millions of Aficans, but yesterday removed from their condition of natural savagery, become citizens coequal in the enjoyment of political rights and privileges? The great Calhoun whose warnings to our people speak from the past with the wisdom of prophecy, said that liberty "is a reward to be earned, not a blessing to be lavished on all alike." This question concerned the whole of society; and the history of the South since emancipation is an undying testimonial to the fallacy of universal equality. (3) It was a question of Constitutional power; could this United States stretch forth her Constitutional hand and mould the domestic institutions of a State? Had this government, so carefully guarded by our fathers, gradually grown into a consuming monster ready to destroy the peace, prosperity, and privileges of a state at the will of a greedy majority? Be it so, but the South was ready to defend her rights by a "resistance even unto blood." Yes, there was an "impending crisis," a "fixed destiny," an "irrepressible conflict;" section was arrayed against section, government against government, and feeling against feeling.

Upon review of the operative causes of secession we are

warranted in advancing the following general proposition. The Federal legislation for raising revenue burdened one section while it enriched another. These laws were insisted on, though believed by nearly one-half of the people to be unconstitutional. Every occasion of popular excitement had its origin in a territorial question, turning on which question, feeling would be augmented. The efficacy of the anti-slavery agitation first manifested itself in 1820 in a sectional territorial dispute. The religious scruples of the anti-slavery agitators was an unique instance of political fake. Any violation of the security of slave holders property and peace was to be applauded by religionists of the North. By this course of action the sectional equilibrium originally intended by the fathers was overthrown, and the North was beginning a domination over the South with that unbridled tyranny characteristic of a haughty and secure majority.

The Constitution was made binding upon the judges and officers of each state, "anything in the Constitution and laws of any state to the contrary notwithstanding." The rendition of fugitive slaves was made obligatory upon the states; yet fourteen states passed "personal liberty laws," for assisting the escape of slaves—the legitimate property of Southern men. The purpose for which the Constitution was formed was no longer secured, but was actually defeated; therefore, because of its existence was undetermined. The parts of the Union were being estranged and arrayed against each other, instead of being unified and made more perfect. Justice was no longer shown in the government. Domestic tranquility had given place to John Brown raids, a system whereby the peace and prosperity of one section were to be plundered and destroyed by insurgents and fanatics, who received "aid and comfort" from the other section. The common defense was provided for by most fortifications being placed in the North. The blessings of liberty, instead of being secured to posterity, had already been transformed into the scourge of serfdom for the men of the South. The triumphant party had declared itself opposed to the decision of the Supreme Court, the Constitutional Court of last resort. Mr. Lincoln, the leader of this party and the successful candidate for President, had declared that anti-slavery

sentiments had prevailed in the territories and must next "invade the states." In view of the flagrant and palpable violation of the Constitution, the instrument of contract and the undoubted violation soon to follow, how could the Southern States do otherwise than to secede? They possessed full and inalienable sovereignty over the only known units of society, and were in duty bound to protect this society. The right of self-preservation is ever over and above every other right in an organized body. Under the existing form of government they could resort to the peaceful method of secession; under other conditions they must have appealed to the ever-existent right of revolution. They must protect themselves, and they had a right to do so peacefully.

Again, it follows as a glorious sequel that the men who shed their blood in obedience to the call of their states were not traitors and rebels, but patriots that have impressed their names upon the memory of their sons and of humanity by their deeds of unflinching courage and unrivalled heroism. Their lost cause together with the record of their glorious struggle, is our inheritance; one sanctified by the memory of their suffering and sustained by strength of a rational conviction. The poetry of the soul wells up against the logic of events, and cries out in mockery at the dust of hopeless defeat, "Truth though crushed to earth shall rise again." Our fathers of the Confederacy are fast crossing over into Eternal rest; then, let not the righteousness of their cause or purity of their motives be measured by the completeness of their defeat.

APPENDIX

LAW OFFICE OF
GEORGE B. CROMER
NEWBERRY, S. C.

January 18, 1917.

Hon. J. J. McSwain,
Greenville, S. C.
My dear Sir:—

I appreciate your sending me a copy of your essay on "The Causes of Secession." It is an able discussion of the subject and would do no discredit to your maturer years. I shall be glad to preserve my copy.

I enclose pamphlet containing an article by Col. Bingham, on "Sectional Misunderstandings", reproduced from the North American Review. You will find this pamphlet extremely interesting, if you are not already acquainted with Rawle's View of the Constitution. Until I read Col. Bingham's article in the North American Review, I had never heard of Rawle's book. It is surprising that so many of our writers on the subject have overlooked the fact, when Jefferson Davis, Robert E. Lee, Joseph E. Johnson, Stonewall Jackson and others, were cadets at West Point, they were required to use as a text-book a work that definitely and explicitly taught the right of secession.

Please return this pamplet.

With kind regards.

Yours very truly,

C.B.C.-D. GEO. B. CROMER.

LANDER COLLEGE
GREENWOOD, S. C.

January 20, 1917.

Col. J. J. McSwain,
Greenville, S. C.
Dear Sir:

Thank you very much indeed for the copy of your address.

Miss Mildred Rutherford, of Athens, Ga., an officer of the U. D. C., desired it and I gave it to her. Can you not send me another copy for our Library? We will appreciate it very much indeed.

With kindest wishes.

Sincerely yours,

JOHN O. WILSON.

UNIVERSITY OF SOUTH CAROLINA,
DEPARTMENT OF HISTORY
YATES SNOWDEN.

Columbia, S. C., 24th January, 1917.

J. J. McSwain, Esq.,
Greenville, S. C.

My dear Sir:

I have to thank you for the pamphlet publication of your excellent essay on "The Causes of Secession" (1896), and especially for the ringing paragraph with which you close your introduction (on p. VI). It is not considered good form nowadays to attempt to vindicate the right of Secession *prior to* 1861, and that is all that you or I wish to do. I had an officer in the Confederate Navy, from S. C., tell me that he would be thankful if his sons were not ashamed of his record, and in the twelve years I have been here I have received seven *entrance examination papers* which could not identify Jefferson Davis! All of them, as is very proper, easily identified Abraham Lincoln.

The book you seek, The Republic of Republics, was written by B. J. Sage of the New Orleans Bar, and published under the pseudonymn of "P. C. Centz, Barrister", by Little Brown & Co. of Boston. If I mistake not it has had four editions and yet it is out of print, and hard to get from the old book dealers. I bought the only copy I have ever seen at a book auction in New York thirteen years ago, and I shall be on the lookout for a copy for you.

Mr. Sage, strange to say, was from Conn., and sent Charles O'Conor of counsel for President Davis, so remarkable a brief that he would have been associated with the defence had the trial for *Treason* not been dropped. I have been told that James B. Campbell, of Charleston, told Presi-

dent Johnson that the people of the South would welcome the trial of Mr. Davis for Treason, because every word of that trial would be read at the North, and that the Northern people would thus for the first time be made familiar with the facts. Evarts and Chase *et al* probably realized *that* fact! Mr. Sage also wrote a number of articles in the *Southern Magazine* (Turnbull, Baltimore), along the same line as The Republic of Republics; but I do not recall whether under his own name, or the rather fanciful "P. C. Centz",—by which he meant *Plain Common Sense.* Albert Taylor Bledsoe apparently drew much of the material for his short but remarkable work, "Is Davis a Traitor?" from Sage's great work. Are you familiar with it? A better title would have been, "Was Secession a Constitutional Right prior to 1861?" for Davis is not referred to more than once or twice in the book. I wish you would send me eight or ten copies of the pamphlet, if you can spare them, and I hope you will send copies to every library in the state.

Again thanking you I am,

Yours sincerely,

YATES SNOWDEN.

ELLISON A SMYTH

Greenville, South Carolina, January 20, 1917.

Mr. J. J. McSwain,
Greenville, S. C.

Dear Sir:

I am obliged to you for sending me copy of your pamphlet on "The Causes of Secession" and which I read last night with much pleasure and profit. I have been absent a week North and only returned yesterday afternoon but found your pamphlet among my mail and started looking it over and became so interested in it that I read it, and now take the liberty of asking for four additional copies for my four grandsons who bear my name, as Iwish to give each one of them a copy to read and preserve. I am glad you published this very able and interesting article, and you deserve the thanks of the community for doing so.

Yours truly,

ELLISON A. SMYTH.

S—D.

ROCK HILL PUPLIC SCHOOLS
R. C. BURTS, *Superintendent*
ROCK HILL, S. C.

February 1, 1917.

My dear Mr. McSwain:

I shall appreciate your sending me a copy of your thesis recently printed. I shall be glad to have this on file not only for its value as reference but for the sentiment attached to it. I recall very well the impression it made upon me when you read a selection once in school.

Sincerely,

R. C. BURTS.

UNITED STATES SENATE,
COMMITTEE ON NAVAL AFFAIRS

Washington, D. C., January 25, 1917.

Mr. J. J. McSwain,
Greenville, S. C.

Dear John:

I am in receipt of the essay you wrote on "The Causes of Secession", and wish to thank you for sending it.

Although I haven't had time to read it, I sent it to an old friend of mine in Illinois and recommended it to him as good reading, because of my knowledge of the ability of the writer.

I will thank you to send me a couple more copies if you can spare them.

With best wishes, I am

Very sincerely,

B. R. TILLMAN.

UNITED STATES SENATE,
COMMITTEE ON NAVAL AFFAIRS

Washington, D. C., January 29, 1917.

Honorable J. J. McSwain,
Greenville, S. C.

Dear McSwain:

I am in receipt of your letter of January the twenty-

seventh and thank you for sending me the copies of your essay "The Causes of Secession."

I do not know what your ambition leads to, but in my opinion you are well equipped for a Congressional career, and it is a splendid field in which service can be done.

Very sincerely yours,

BRTjr—g. B. R. TILLMAN.

UNITED STATES SENATE,
COMMITTEE ON NAVAL AFFAIRS

Washington, D. C. February 2, 1917.

Mr. J. J. McSwain,
Greenville, S. C.

My dear Sir:

I am enclosing herewith a letter I have received from an old friend of mine in Illinois, which will be of interest to you, I know.

Very sincerely,

J. B. R. TILLMAN.

encl. 1.

P. S. Please return the letter as soon as you have read it.—B. R. T.

22nd January, 1917.

Dear Mr. McSwain:

I had planned to go to church yesterday but after rain I did not venture out, so passed off day. Picked up your "Essay", commenced to read and could not close till last line was finished. The close research, study and application show brain, Mr. McSwain, and I feel so proud of your efforts and success in handling it; giving both North and South what justly belongs to them. Let me tell you here, I, with many others, are running you for Congress. Yes, sir, the small boy in knee pants, whom all his father's friends in Cross Hill claimed as "John"—private property belonging to each and all of them—then in college your fellow students, especially my three nephews, speak and talk of "John McSwain" as if he were a brother. Now tell me: have you another copy of the Essay? I ask because if can spare copy I have, I want to send this one to Edgefield where it will be eagerly read by as

good friends as you have in Greenville or Laurens. You know how Mrs. Swearingen always loved you, and Johnnie, George and their sister, Mrs. Swindell, all take the deepest interest in all that concerns you. You may not realize it but you are a born politician and you should now begin to make ready for next campaign and show some people here and in Washington what the "Essay writer" *can and will do.* Had no idea of scratching this much, and if you can't decipher please burn and know you have lost nothing. Again thanking you for privilege of going over your views and getting references to show *"South was right to secede",* I am your grateful friend,

F. T. Simpson.

W. Hampton Cobb
Attorney At Law
Columbia, S. C.

January 20th, 1917.

Hon. J. J. McSwain,
Greenville, S. C.
Dear Mac:

Your pamphlet, "The Causes of Secession", to hand. I have only had time to peruse it. I note that you intended before publishing it, to improve upon the original. You acted wisely in not carrying out your original design—with all due deference to your present ability which I fully recognize, admire and appreciate.

I shall file it away among the archives. It reminds me, however, that we are twenty years older than when the medal was awarded—but I know that each of us have striven to make the best of the "twenty years" which are now past history. I thank and congratulate you.

Sincerely, your friend,

W. Hampton Cobb.

ADAM C. WELBORN,
ATTORNEY AND COUNSELLOR AT LAW

Greenville, S. C., January 19, 1917.

Hon. J. J. McSwain,
Attorney at Law,
Masonic Temple,
Greenville, S. C.

My dear Sir:

I thank you kindly for the presentation of your Essay on "The Causes of Secession." I finished reading it at 11:50 A. M. today. If you had not told me in the introduction that you had published it "without the change of a single word", I would not have believed it. It read more like the production of a profound scholar and *lawyer* than that of a school boy in his twenty-first year. Mark a coincidence: Gen R. E. Lee was born January 19, 1807. Your medal was delivered to you January 19, 1897. You delivered a copy of your Essay to me January 19, 1917.

Very respectfully,

ADAM C. WELBORN.

DR. J. H. MILLER
GENERAL MERCHANDISE
STATE LICENSED DRUG STORE COMBINED

Cross Hill, S. C., January 22, 1917.

Hon John J. McSwain,
Greenville, S. C.

Dear John:

We are in receipt of your kind favor of your reprint of your Essay to the U. D. C. while a student in Carolina and thank you very much for same. I read it carefully through and there is much food for profound thought contained in it. Ella and I enjoyed it. I am thinking of sending it to a friend that we traveled through Europe and British Isles with in 1913, who lives in Oklahoma City, Okla. He is a millionaire oil field magnate and has been so very kind and thoughtful of us, even up to this day. I trust you and all

the family are quite well. All here up, but cold and catarrhal fever among us.

Yours sincerely,

JNO. H. MILLER.

THE SUPREME COURT OF SOUTH CAROLINA

Abbeville, S. C., January 20, 1917.

Mr. J. J. McSwain,
Greenville, S. C.
Dear Mr. McSwain:

The copy of your address, entitled: "The Causes of Secession", which you kindly sent me, has been welcomed, for which I beg you will accept many thanks. It is scholarly, able and instructive; and is an important addition to the literature on this subject. It was my good fortune to be present when it was delivered, and I was then very much impressed with it. I then predicted for you a successful career in life.

I take the liberty of enclosing you a copy of an address delivered by me on a kindred subject; also, copy of an address delivered by my son Ernest.

As this is the only copy we have I would be glad if you would return it after reading it. I present the other, with my compliments.

With my best wishes.

Yours truly,

EUGENE B. GARY.

HENDERSONS
ATTORNEYS AND COUNSELLORS AT LAW,
AIKEN, S. C.

January 30th, 1917.

J. J. McSwain, Esq.,
Greenville, S. C.
My dear McSwain:

I thank you for your attention to my son, and I wish you would keep this matter in view, and if you know of any place according to what he told you in Greenville that may

suit him, let us know as I would like to see him settled in that territory.

I thank you for your address on the "Causes of Secession", which I have read with great deal of interest. It is excellent, and your introduction is very fine. I remember distinctly hearing the Address delivered in '97, when you got the medal for it, but I did not know that the young man who delivered it was now my friend, McSwain, of Greenville.

I am sending you under another cover an address I delivered on the White Man's Revolution.

Yours very truly,

DSH-A. D. S. HENDERSON.

THE STATE HISTORICAL SOCIETY OF WISCONSIN
(TRUSTEE OF THE STATE)
MADISON

February 2, 1917.

Mr. J. J. McSwain,
Greenville, South Carolina.
Dear Sir:

On behalf of the Society I wish to thank you for your pamphlet on the "Causes of Secession" which you so kindly sent to our Library in response to my request of recent date.

Very truly yours,

M. M. QUAIFE,
MGP *Superintendent.*

SAN JUAN HOTEL

Orlando, Florida, March 23rd, 1917.

My dear Friend Mr. McSwain:

At this late hour, I'm writing to express my appreciation of your fine article on "Secession" and the causes leading to that result. You have combined strength and finish in a marked degree and, although written when a college student, it is a masterpiece. I have never read anything more logical, or convincing on this subject, which separated the

two sections of our country so widely apart that fifty years have not quite welded the breach.

I was telling my friend, Mrs. C. E. Graham, about this masterly effort of yours and she is anxious for a copy to present to the U. D. C. of Orlando.

You know this state is submerged by the people from the other side of "Mason and Dixon Line" and they need just such *life savers* as this article to keep them from being drowned out.

Yours very truly,

MRS F. LOUISE MAYES.

UNION GRADED SCHOOLS
DAVIS JEFFRIES, *Superintendent*
UNION, SOUTH CAROLINA

April 3, 1917.

Mr. J. J. McSwain,
Greenville, S. C.

Dear Sir:

I have received your essay on "The Causes of Secession" and thank you very much for your kindness.

The Daughters of the Confederacy have offered our school a medal and your essay will be a great help to us, and we are under many obligations to you for sending it.

Yours very truly,

DAVIS JEFFRIES.

Columbia, S. C., January 20, 1917.

Mr. J. J. McSwain,
Greenville, S. C.

My dear Mr. McSwain:

I have read with much interest the marked copy of your essay, addressed in my care to Mrs. Horton's late mother, Mrs. J. W. Flinn. You have reason to take satisfaction in having written in your 21st. year so able an exposition of "The Causes of Secession."

Most of the historical works in Dr. Flinn's library became mine, by gift of his heirs, but the book mentioned in the introduction to your reprint seems not to be among them. I

remember seeing it but have an impression that for some reason it was sent with a few other items from the library to the Rev. Cheves Smythe in Czechuan, China.

With regards and good wishes.

Very truly yours,

McDavid Horton.

Bird Mountain Fruit And Stock Farm
breeders of
Registered Short Horn Cattle and Duroc Jersey Hogs

Georgetown, Ky., March 18, 1917.

Mr. J. J. McSwain,
Greenville, S. C.
Dear Sir:

I have read a copy of your essay on "The Causes of Secession" and I was so impressed with it that I would like to have a couple of copies. One for myself and one for a friend of mine. We are interested in American history and especially in the Civil War.

Thanking you for your kind favor I remain,

Yours truly,

J. J. Gentry, Jr.
Box 145, Georgetown, Ky.

Bailey Military Institute
R. B. Curry, *Headmaster*
Greenwood, South Carolina

February 20, 1917.

Hon J. J. McSwain,
Greenville, S. C.
My dear Mr. McSwain:

I want to thank you for the copy of "The Causes of Secession." I have handed this to our professor of history, with the instruction that it be used in connection with his class room work in American history.

I was glad to receive a copy of this as I had become in-

terested in it from reading an editorial in the Columbia State about it.

With very best wishes, I am

Sincerely,

RAVENEL B. CURRY,
Headmaster.

GRANITEVILLE GRADED SCHOOL
J. M. O'NEALL HOLLOWAY, *Superintendent*

Graniteville, S. C., February 19, 1917.

Hon. J. J. McSwain,
Greenville, S. C.
My dear Mr. McSwain:

The best way I can demonstrate my thanks for the favor done me in sending me a copy of your essay on "Causes of Secession" will be to tell you that I have read, and reread it, and unreservedly pronounce it, so far as my limited ability admits an argument absolutely unanswerable.

So have I read Jefferson Davis's "The Rise and Fall of the Confederacy", and I regard it also unanswerable from a constitutional standpoint. Wish I could read The Republic of Republics spoken of in your introductory.

Again thanking you for this interesting and all-informing paper, I am,

Yours very truly,
J. B. O'NEALL HOLLOWAY.

THE CAROLINA NATIONAL BANK
OF COLUMBIA

Columbia, S. C., February 19th, 1917.

Mr. Jno. J. McSwain,
Attorney at Law,
Greenville, S. C.
My dear Friend:

I received your address, "The Right of Secession", delivered twenty years ago and have read the same with pleasure. You have made a very strong presentation of what we have deemed a right under the Constitution and tho that

right has been denied under the abbitrament of the sword, the moral still exists and the truth will always remain. As a legal right the argument seems clear as to the practical benefit by the assertion of this right is certainly questionable. Those questions however are only interesting at this time in order to assert the right of those who may have always been trained to admire.

At our Reunion in Columbia two years ago our orator was Rev. Wm. E. Boggs who was chaplain of the Sixth Regiment and a most excellent soldier. I am sending you a copy of his address and I know you will read it with interest.

I am always pleased to hear from you and know that you are succeeding in life and making a good name for yourself.

Yours very truly,

W. A. Clark.

Newberry, S. C., March 14th, 1917.

My dear Mr. McSwain:

I am enclosing you a copy of some resolutions enthusiastically passed by the Drayton Rutherford Chapter U. D. C. at its meeting on Tuesday of this week.

Resolved: That the Drayton Rutherford Chapter U. D. C. hereby expresses its appreciation of Mr. J. J. McSwain's most excellent presentation of "The Causes of Secession." And also its admiration for his patriotic spirit which prompted him to publish the pamphlet at his own expense.

Cordially,

Kate B. Johnstone,

Cor. Secty. Drayton Rutherford Chapter U. D. C.

Wofford College

Spartanburg, S. C.

My Dear McSwain:

I have glanced over your essay on the "Causes of Secession". I shall go back to it with pleasure for a careful reading. It is convincing and instructive. I congratulate you on its writing. You may well take pride in it. I wish with your gift of historical insight and statement, you could find time to write more.

Please say to Mrs. McSwain that I enjoyed very much my brief home-like stay with you and the little one. Such outings, as you suggested do one much good.

I wish to congratulate you on the work you are trying to do in your Sunday afternoon meetings.

With kind regards.

Sincerely,

A. G. Rembert.

January 27, '17.

State of South Carolina
Department of Education

Columbia, January 20, 1917.

Hon. J. J. McSwain,
Greenville, S. C.

Dear Mack:

Yesterday's mail brought me a copy of your essay on the "Causes of Secession." This pamphlet is highly appreciated, and shall be filed among my most valuable papers. I remember distinctly your reading of this essay when you won the U. D. C. medal which was awarded you in the Hall of Representatives in Columbia.

With kindest regards and hoping to see you when you are next in Columbia, I am

Yours respectfully,

John E. Swearingen.

Report of address in Greenwood, S. C., July 4, 1916, in Greenwood *Index*:

Mr. McSwain spoke most eloquently and forcefully on the subject, "Democracy, the Hope of Humanity." He gave the origin of Democracy, declaring that Jesus Christ was the first Democrat. He traced this idea through the centuries to its culmination in the Declaration of Independence. Mr. McSwain emphasized in the second place the influence and effect of American Democracy on the world. Within the past 140 years since the Declaration of Independence was signed, he said, that practically 50 per cent of the world has been placed under democratic institutions.

As a glimpse into the future of Democracy Mr. McSwain

predicted that the present world war will result in the enlargement of Democracy and that in time to come monarchial and privileged classes will be a matter of history.

"The divine right of kings," concluded the speaker, "will yield to the divine right of the people."

The Baptist Courier of January 25, 1917, carried the following:

"We acknowledge the receipt of a pamphlet entitled 'The Causes of Secession.' The author, Mr. J. J. McSwain, one of the leading lawyers of Greenville, tells us that it is an essay which he wrote while a student of South Carolina College, Columbia. He won the prize that was offered; and now twenty years after it was written, without any change, he has concluded to give the essay to the public. We began to read the address solely because of our high personal regard for the author, but that motive soon gave way to genuine interest in the treatment of his theme. It is a masterful argument, the best on this subject we have ever read. We are not authorized to say that Mr. McSwain will send a copy of this essay to any one desiring it; but if you are interested you doubtless could get one by addressing a postal to him. It is not offered for sale."

Editorial in The *State* (Columbia, S. C.), January 21, 1917:

AN ARGUMENT SOUND AND ENDURING

Of the numbers of pamphlets that come to our desk "The Causes of Secession," an essay written by John J. McSwain while a student in the South Carolina college in 1896 and which won the medal offered by the Wade Hampton chapter of the Daughters of the Confederacy in that year, is one of the most striking in its interest and force. Mr. McSwain, when the essay was prepared, was a student from Cross Hill, Laurens county, and is now one of the principal lawyers of the Greenville bar. He has always found time to devote to public service and this early work of his is entirely worthy of the more pretentious efforts of his later life which uniformly have been characterized by the display of keen reasoning powers, a vigorous grasp of the subject and power of ex-

pression. We quote the closing paragraph of the introduction to the essay in the pamphlet now published.

"In order to arouse some interest in the study of history among our young people, in order to show that the present generation are not the sons and daughters of rebels and traitors, in order to show that the four years war from 1861 to 1865 was a great human sacrifice of life and treasure placed upon the altar of human liberty, in order to show that the belief in the right of secession was not sectional and not selfish, in order to show that the descendants of the soldiers of the Confederacy need never apologize for secession, but may proudly explain its place in history, I have decided to publish and to distribute free the following effort of the Southern school boy, whose early impressions and convictions have not been altered by the calmer thought of manhood."

The quotation, we think, credits the soundness of the "school boy's" judgment and of his instruction, too. As the years pass, the majority of students who, whether Northern or Southern men, agree with his conclusions, is steadily recruited and enlarged.

AIM OF AMERICAN LEGION TO PROMOTE TRUE AMERICANISM, SAYS CAPT. J. J. McSWAIN

(From Daily Piedmont)

Capt. J. J. McSwain, one of the organizers of the Greenville post of the American Legion, is in receipt of a letter from Arthur Woods, chairman of the national Americanism commission of the American Legion in which he thanks Captain McSwain for the stand the latter has taken in regard to the enforcement of law and order.

Chairman Woods' letter is the result of a letter written several weeks ago by Captain McSwain to Colonel D'Ollier. Captain McSwain deplored the fact that certain members of the American Legion had felt that they were privileged characters and had the right to take the law into their own hands on certain occasions.

The full letter written by Captain McSwain to Colonel D'Ollier and in turn has been referred to Chairman Woods is as follows:

As chairman of the executive committee in this state I am writing to commend the position taken by you in an interview warning members of the American Legion against taking the law in their own hands, even in causes where their motives are worthy and patriotic.

I am sending a copy of this letter to the state commander of South Carolina, suggesting that he bring the matter to the attention of the members of the legion in this state.

In a few cases, some members of the legion through a commendable zeal for the high ideals of Americanism, have appeared to be impatient of the slow and orderly processes of the law. But at the root and in essence, such conduct is "lynch law" and is not to be encouraged and will be condoned only in certain extreme cases. Therefore, as a clean proposition, it is the duty of the members of the American Legion, as it is the duty of every citizen, to uphold the hands of all the officers of the law and to assist such officers in the performance of their duty when legally called upon, and not to rush in advance of such call.

We hear much said about Americanism, and ordinarily each speaker and writer has in mind his own individual pet theory of what is best for America, but as I understand it, that Americanism upon which we all must agree is expressed in the Declaration of Independence to the effect that government rests upon the consent of the goverened and involves the right of the people at any time to alter or abolish an existing government by orderly and lawful methods. In other words, fundamental Americanism means the right of the majority to rule and the duty of the minority to submit; but true Americanism involves the right of the minority to agitate by lawful means, at the proper time, in the hope of converting the minority into a majority.

Therefore fundamental Americanism is something that goes back of the constitution except article five of the constitution which confers the right of amendment. Under this article, it is possible for a majority of the American people, proceeding lawfully, to amend and alter every other part of

the constitution so that the form of government would be entirely different from that we now have. Some very fundamental and far reaching amendments have been adopted in recent years.

Therefore, I respectfully submit that the highest conception of true Americanism enjoins us to be tolerant of the words, either written or spoken, of other American citizens whose particular views do not harmonize with ours. So long as an American citizen merely agitates by speech or pen, and does not resort to or encourage resistance to the constituted authorities and seeks merely to influence political action looking to an amendment to our constitution, then, I again respectfully submit such citizen is within his rights and it is our duty not only to be tolerant ourselves but to protect him in the exercise of those rights.

I trust therefore, that you will from time to time in the future, emphasize the thought already expressed by you that members of the American Legion will do the organization harm, and will do the cause of true Americanism harm if they should ever resort to extra-legal and violent methods of enforcing their own views in particular cases, or of suppressing the views of others. The aim of the American Legion is to promote true Americanism. The essence of Americanism is Democracy as expressed in the Declaration of Independence; the life of Democracy is freedom of thought and speech. Freedom of thought and speech involves a mutual duty of toleration.

Yours very truly,

J. J. McSwain,

Chairman.

COTTON TAX

"From 1863 to 1868 there was collected from the citizens of the Southern State a cotton tax, amounting in the aggregate to $68,072,388.99, an itemized statement of which I submit herewith. This statement shows the sums of money realized by the Government under the various acts levying a tax on cotton. (Said tax was unconstitutional.)

"1863	$ 351,311.48
"1864	1,268,412.56
"1865	1,772,983.48
"1866	18,409,654.90
"1867	23,769,078.80
"1868	22,500,947.77
Total	$68,072,388.99"

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JAN 75
N. MANCHESTER,
INDIANA

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